

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3157
Administrative Law Judge Division
August 25, 2005

R E S O L U T I O N

RESOLUTION ALJ 176-3157. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

ALJ/hl2

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on August 25, 2005, the following Commissioners voting favorably thereon:

/s/ STEVE LARSON

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
JOHN A. BOHN
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3157 (8/25/05)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
C05-07-014 SUNCOUNTRY OWNERS ASSOCIATION vs. California-American Water Company, to establish a fair reduced interim metered rate for the water services provided to Suncountry Owners Association.	Ratesetting	Ratesetting	YES
A05-07-018 LODI GAS STORAGE, L.L.C., for a certificate of public convenience and necessity for construction and operation of gas storage facilities.	Ratesetting	Ratesetting	YES
A05-07-019 TOMAS, MATTHEW DUANE, dba MT EXPRESS, for authority to operate as a Commuter Service Passenger Stage Corporation between points in Murietta, California, and downtown San Diego, California; and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO
A05-07-020 ACCERIS MANAGEMENT AND ACQUISITION LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A05-07-023 STARVOX COMMUNICATIONS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A05-07-025 CLEARLINX NETWORK CORPORATION (U 6959-C), for a Modification of its Certificate of Public Convenience and Necessity in order to provide competitive Local Exchange, Access and Non-Dominant Interexchange Services.	Ratesetting	Ratesetting	NO
A05-07-026 GVC NETWORKS, LLC, WINSTAR COMMUNICATIONS, LLC, for Approval of an Indirect Transfer of Control of Winstar Communications, LLC (U 5531-C) to GVC Networks, LLC.	Ratesetting	Ratesetting	NO
A05-08-001 EURO CONNECT INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-08-002 SOUTHERN CALIFORNIA EDISON COMPANY (U 338 E) (ERRA), for Approval of its Forecast 2006 ERRA Proceeding Revenue Requirement, to Consolidate all Commission-authorized Revenue Requirements, and to set Unbundled Rate Components beginning January 1, 2006.	Ratesetting	Ratesetting	YES
A05-08-003 LOCAL PHONE SERVICES, INC., for a Certificate of Public Convenience and Necessity to provide Facilities- Based and Resold Local Exchange Services within the local service territories of Pacific Bell Telephone Company, Verizon California, Inc., SureWest Telephone and Citizens Telecommunications Company of California, Inc., and to provide Facilities-Based and Resold Interexchange Service throughout California.	Ratesetting	Ratesetting	NO
A05-08-004 DABIT, FARID, dba ON TIME AIRPORT SHUTTLE, DABIT, FARID, dba ON TIME AIRPORT SHUTTLE, LLC, for approval of the transfer of the operating authority held by seller in passenger stage corporation certificate 11176, pursuant to provisions of Public Utilities Code Section 851 et seq.	Ratesetting	Ratesetting	NO
A05-08-005 CITY OF OXNARD, for Authority to construct a new public at-grade crossing across a lead and siding track of the Union Pacific Railroad Company in the City of Oxnard, County of Ventura.	Ratesetting	Ratesetting	NO
A05-08-006 CALIFORNIA WATER SERVICE COMPANY (U 60-W), for authority to increase rates charged for Water Service in the Antelope Valley District by \$437,218 or 36.94% in fiscal year 2006-2007; by \$145,000 or 8.94% in fiscal year 2007-2008; and by \$145,000 or 8.21% in fiscal 2008-2009. (TEND 0205)	Ratesetting	Ratesetting	YES
A05-08-007 CALIFORNIA WATER SERVICE COMPANY (U 60-W), for authority to increase rates charged for Water Service in the Bear Gulch District by \$2,107,653 or 11.16% in fiscal year 2006-2007; by \$1,099,700 or 5.24% in fiscal year 2007-2008; and by \$1,099,700 or 4.97% in fiscal 2008- 2009. (TEND 0305)	Ratesetting	Ratesetting	YES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-08-008 CALIFORNIA WATER SERVICE (U 60-W), for authority to increase rates charged for Water Service in the Dominguez-South Bay District by \$321,289 or 1.01% in fiscal year 2006-2007; by \$874,600 or 2.71% in fiscal year 2007-2008; and by \$874,600 or 2.64% in fiscal 2008-2009. (TEND 0405)	Ratesetting	Ratesetting	YES
A05-08-009 CALIFORNIA WATER COMPANY (U 60-W), for authority to increase rates charged for Water Service in the Hermosa-Redondo District by \$1,313,889 or 7.43% in fiscal year 2006-2007; by \$566,600 or 2.98% in fiscal year 2007-2008; and by \$566,600 or 2.89% in fiscal 2008-2009. (TEND 0505)	Ratesetting	Ratesetting	YES
A05-08-010 CALIFORNIA WATER SERVICE COMPANY, for authority to increase rates charged for Water Service in the Kern River Valley District by \$1,726,987 or 66.64% in fiscal year 2006-2007; by \$172,700 or 3.99% in fiscal year 2007-2008; and by \$172,700 or 3.84% in fiscal 2008-2009. (TEND 0605)	Ratesetting	Ratesetting	YES
A05-08-011 CALIFORNIA WATER SERVICE COMPANY, for authority to increase rates charged for Water Service in the Marysville District by \$592,959 or 31.19% in fiscal year 2006-2007; by \$423,200 or 16.96% in fiscal year 2007-2008; and by \$423,200 or 14.50% in fiscal 2008-2009. (TEND 0705)	Ratesetting	Ratesetting	YES
A05-08-012 CALIFORNIA WATER SERVICE COMPANY, for authority to increase rates charged for Water Service in the Palos Verdes District by \$2,111,565 or 8.38% in fiscal year 2006-2007; by \$1,890,300 or 6.91% in fiscal year 2007-2008; and by \$1,890,300 or 6.47% in fiscal 2008-2009. (TEND 0805)	Ratesetting	Ratesetting	YES
A05-08-013 CALIFORNIA WATER SERVICE COMPANY, for authority to increase rates charged for Water Service in the Redwood Valley District by \$1,972,540 or 211% in fiscal year 2006-2007; by \$333,600 or 11.5% in fiscal year 2007-2008; and by \$333,600 or 10.3% in fiscal 2008-2009. (TEND 0905)	Ratesetting	Ratesetting	YES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-08-014 MEDINA, BIVIANO, dba LOS CAL-MEX, for authority to operate as an on-call Passenger Stage Corporation to transport passengers and their baggage between points in the City of San Ysidro in San Diego County, the City of Santa Ana in Orange County, and the City and County of Los Angeles; and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO
A05-08-015 AMERICAN FIBER NETWORK, INC., MOBILEPRO CORP., to complete a transfer of control of American Fiber Network, Inc., an authorized carrier.	Ratesetting	Ratesetting	NO
A05-08-016 MPOWER NETWORKS SERVICES, INC., for a Certificate of Public Convenience and Necessity to provide Facilities-Based and Resold Local Exchange Services within the local service territories of Pacific Bell Telephone Company, Verizon California, Inc., SureWest Telephone and Citizens Telecommunications Company of California, Inc., and to provide Facilities-Based and Resold Interexchange Service throughout California.	Ratesetting	Ratesetting	NO
A05-08-017 ADVANCE SHUTTLE, LLC, for Passenger Stage Authority Under Section 1031 et seq., Public Utilities Code, to transport passengers and their baggage on an on-call, door-to-door basis, between points in the Counties of Los Angeles and Orange, on the one hand, and the Los Angeles International Airport, the Santa Ana Airport and the Long Beach Airport, on the other hand; and to establish a Zone of Rate Freedom ("ZORF") under Section 454.2 et seq., of the Public Utilities Code.	Ratesetting	Ratesetting	NO
A05-08-018 MAIN EVENT TRANSPORTATION INC., to amend Passenger Stage Certificate 16020 for authority to increase certain fares and to change pick up location in Salinas, California.	Ratesetting	Ratesetting	NO
A05-08-021 SAN GABRIEL VALLEY WATER COMPANY (U 337 W), for authority to increase rates charged for Water Service in its Fontana Water Company Division by \$5,662,900 or 13.1% in July 2006; by \$3,072,500 or 6.3% in July 2007; and by \$2,196,000 or 4.2% in July 2008. (TEND 1005)	Ratesetting	Ratesetting	YES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-08-022 PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), for a permit to construct the Delta Distribution Planning Area Capacity Increase Substation Project pursuant to General Order 131-D.	Ratesetting	Ratesetting	YES
A05-08-023 L.A. MEX TOURS, INC., for authority to operate as a Passenger Stage Corporation for the transportation of passengers and their baggage on an on-call basis between points in the Cities of San Ysidro, El Monte and Los Angeles; and to establish a Zone of Rate Freedom (ZORF).	Ratesetting	Ratesetting	NO
A05-08-025 MANHATTAN TELECOMMUNICATIONS CORPORATION, dba METROPOLITAN TELECOMMUNICATIONS, MANHATTAN TELECOMMUNICATIONS CORPORATION, dba BUSINESS PRODUCTIVITY SOLUTIONS, INC., for authority pursuant to Public Utilities Code Sections 851 and 854 to consummate a transfer of control.	Ratesetting	Ratesetting	NO